

SECOND EXTENSION OF SERVICE CONTRACT

This Second Extension of Service Contract ("Second Extension") is made effective as of the 16th day of January, 2009, by and between Correctional Medical Services, Inc. ("CMS") and the State of Delaware, Department of Correction (the "DOC") and extends the Service Contract made effective between the parties through June 30, 2010.

WHEREAS, the DOC and CMS (hereinafter referred to collectively as the "Parties"), entered into the Service Contract on or about May 31, 2005, and whereas the Service Contract, as referenced in the Transfer Agreement, sets forth the terms under which the Parties agreed that CMS would provide healthcare services to the incarcerated population in the custody of the DOC effective July 1, 2005. Pursuant to the Service Contract, CMS began providing healthcare services to the incarcerated population in the custody of the DOC effective July 1, 2005;

WHEREAS, the Parties entered into the Second, Third and Fourth Amendments to the May 31, 2005 Service Agreement in order to provide additional funding for additional staff and performance criteria mutually agreed upon between CMS and the DOC; and

WHEREAS, the Parties entered into the Renewal Agreement in order to extend the Service Agreement for an additional two-year period through June 30, 2009 subject to the terms and conditions mutually agreed upon between CMS and the DOC; and

WHEREAS, the Parties modified the Renewal Agreement with a First Amendment to Renewal of Service Contract; and

WHEREAS, the Parties extended the Staffing Level Payback provisions of the First Amendment to Renewal of Service Contract through June 30, 2009; and

WHEREAS, the Parties have agreed to exercise the final option to renew the Service Contract for a one (1) year period;

NOW, THEREFORE, in exchange for the mutual promises and undertakings set forth herein, and other good and valuable consideration, the parties hereby agree to extend the Service Contract on the terms and conditions set forth herein.

1. Second and Final Extension of Service Contract

A) Pursuant to Paragraph 3 of the Transfer and Amendment Agreement, the Parties hereby agree to extend the Service Contract in accordance with its renewal option terms for one (1) year to commence on July 1, 2009 and end on June 30, 2010. This Second Extension constitutes the final extension available under the original May 31, 2005 Service Contract.

B) The Parties hereby agree that the price term for all services provided by CMS under the Second Extension will not be increased or modified in any way from the price term for the period July 1, 2008 through June 30, 2009 set forth in the July 1, 2007 Renewal of Service Contract between the Parties.

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WHEREAS, the Parties entered into the Second, Third and Fourth Amendments to the May 31, 2005 Service Agreement in order to provide additional funding for additional staff and performance criteria mutually agreed upon between CMS and the DOC; and

WHEREAS, the Parties entered into the Renewal Agreement in order to extend the Service Agreement for an additional two-year period through June 30, 2009 subject to the terms and conditions mutually agreed upon between CMS and the DOC; and

WHEREAS, the Parties modified the Renewal Agreement with a First Amendment to Renewal of Service Contract; and

WHEREAS, the Parties extended the Staffing Level Payback provisions of the First Amendment to Renewal of Service Contract through June 30, 2009; and

WHEREAS, the Parties have agreed to exercise the final option to renew the Service Contract for a one (1) year period;

NOW, THEREFORE, in exchange for the mutual promises and undertakings set forth herein, and other good and valuable consideration, the parties hereby agree to extend the Service Contract on the terms and conditions set forth herein.

1. Second and Final Extension of Service Contract

A) Pursuant to Paragraph 3 of the Transfer and Amendment Agreement, the Parties hereby agree to extend the Service Contract in accordance with its renewal option terms for one (1) year to commence on July 1, 2009 and end on June 30, 2010. This Second Extension constitutes the final extension available under the original May 31, 2005 Service Contract.

B) The Parties hereby agree that the price term for all services provided by CMS under the Second Extension will not be increased or modified in any way from the price term for the period July 1, 2008 through June 30, 2009 set forth in the July 1, 2007 Renewal of Service Contract between the Parties.

2. Stipulation of the Parties regarding eligibility for healthcare services

Effective upon execution of this Second Extension of Service Contract, the Parties hereby agree and stipulate that any and all offenders housed at the Jane E. Mitchell Building located on the campus of Delaware Psychiatric Center, whether detainee or sentenced, are persons within the control and custody of DOC, are on the institutional count of the James T. Vaughn Correctional Center ("JTVCC"), and that said offenders constitute "inmates hospitalized in a community hospital outside a Department facility" as set forth in Paragraph I, B of the 2002 Request for Proposals incorporated into the Service Agreement between the Parties. Accordingly, CMS agrees to immediately undertake the provision of all healthcare services for offenders housed at Mitchell as of the date of execution of this Second Extension of Service Contract.

3. Reservation of Rights and Non-Waiver of Claims and Defenses

The Parties agree that nothing herein is intended to waive, nor shall this Second Extension of Service Contract be deemed a waiver of, any claims or defenses available to the Parties prior to execution of the Second Extension of Service Contract. The Parties retain and reserve all rights, obligations, and duties with respect to or required by all previous contracts, amendments, and extensions executed between the Parties through the effective date of this Second Extension of Service Contract.

4. Remaining duties and obligations unaffected

All of the remaining terms and conditions of the Service Contract, the Transfer Agreement, and the Second, Third and Fourth Amendments, the Renewal Agreement, the First Amendment to Renewal of Service Contract, and the Second Amendment and Extension of First Amendment to Renewal of Service Contract, which are not modified as set forth herein shall remain in full force and effect between the Parties.

IN WITNESS WHEREOF, the parties have set their hands and seals hereto as of the day and year first above written.

STATE OF DELAWARE,
DEPARTMENT OF CORRECTION

By: 

Print Name: Carl C. Danberg

Title: Commissioner

CORRECTIONAL MEDICAL SERVICES, INC.

By:  1804

Print Name: Richard H. Miles

Title: President / Chief Executive Officer

FIRST AMENDMENT TO RENEWAL OF SERVICE CONTRACT

This First Amendment to Renewal of Service Contract ("Renewal First Amendment") is made effective as of the 1st day of June, 2008, by and between Correctional Medical Services, Inc. ("CMS") and the State of Delaware, Department of Correction (the "DOC") and amends: (1) the Service Contract as defined in the Transfer and Amendment Agreement ("Transfer Agreement") between CMS and the DOC executed May 31, 2005, and (2) the Second Amendment to the Service Contract (the "Second Amendment") between the Parties, which was effective as of November 23, 2005, and (3) the Third Amendment to the Service Contract ("Third Amendment"), which was effective as of December 1, 2006; and (4) the Fourth Amendment to the Service Contract ("Fourth Amendment"), which was effective April 1, 2007; and the Renewal of Service Contract ("Renewal Agreement"), which was effective July 1, 2007.

WHEREAS, the DOC and CMS (hereinafter referred to collectively as the "Parties"), entered into the Service Contract on or about May 31, 2005. The Service Contract, as referenced in the Transfer Agreement, sets forth the terms under which the Parties agreed that CMS would provide healthcare services to the incarcerated population in the custody of the DOC effective July 1, 2005. Pursuant to the Service Contract, CMS began providing healthcare services to the incarcerated population in the custody of the DOC effective July 1, 2005;

WHEREAS, the Parties entered into the Second, Third and Fourth Amendments in order to provide additional funding for additional staff and performance criteria mutually agreed upon between CMS and the DOC; and

WHEREAS, the Parties entered in the Renewal Agreement in order to extend the Service Agreement for an additional two-year period through June 30, 2009 subject to the terms and conditions mutually agreed upon between CMS and the DOC; and

WHEREAS, the Parties have agreed that certain changes to the staffing plan as well as the payback methodology set forth in Exhibit A to the Renewal Agreement are desirable at DOC facilities in order to promote quality objectives of the healthcare program;

NOW, THEREFORE, in exchange for the mutual promises and undertakings set forth in this Renewal First Amendment, and other good and valuable consideration, the Parties hereby agree to amend the Service Contract, as previously amended and renewed, on the terms and conditions set forth herein.

1. Changes to CMS Staffing Plan

1.1 The Parties agree to the following changes to the current CMS Staffing Plan effective as of June 1, 2008.

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2. Changes to Staffing Level Payback Methodology


2.1 The Parties agree to modify the staffing payback methodology set forth in Exhibit A to the Renewal Agreement as set forth herein at Exhibit A. These modifications will be made effective on June 1, 2008. The Staffing Level Payback as set forth herein shall expire at midnight, December 31, 2008 unless extended or amended in writing by the parties on or before that date.

3. Choice of Law and Forum. The parties agree that the laws of the State of Delaware shall control all aspects of this Renewal First Amendment and its interpretation. The parties further agree that the proper legal and/or judicial forum for any dispute arising out of this Renewal First Amendment is the State of Delaware.

4. Except as to the terms and conditions added by this Renewal First Amendment, all of the remaining terms and conditions of the Service Contract, the Transfer Agreement, and the Second, Third and Fourth Amendments and the Renewal Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have set their hands and seals hereto as of the day and year first above written.

STATE OF DELAWARE,
DEPARTMENT OF CORRECTION

By: 
Print Name: Carl C. Danberg
Title: Commissioner

CORRECTIONAL MEDICAL SERVICES, INC.

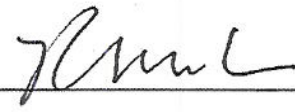

By:  
Print Name: Richard H. Miles
Title: President & CEO

EXHIBIT A

Required Staffing Levels and Paybacks
Effective June 1, 2008

Redacted

RENEWAL OF SERVICE CONTRACT

This Renewal is made effective as of the 1st day of July, 2007, by and between Correctional Medical Services, Inc. ("CMS") and the State of Delaware, Department of Correction (the "DOC") and renews and amends the following: (1) the Service Contract as defined in and modified by the Transfer and Amendment Agreement ("Transfer and Amendment Agreement") between CMS and the DOC executed May 31, 2005; (2) the Second Amendment to the Service Contract (the "Second Amendment") between the Parties, which was effective as of November 23, 2005, (3) the Third Amendment to the Service Contract ("Third Amendment"), which was effective as of December 1, 2006; and (4) the Fourth Amendment to the Service Contract ("Fourth Amendment"), which was effective April 1, 2007.

WHEREAS, the DOC and CMS (hereinafter referred to collectively as the "Parties"), entered into the Service Contract on or about May 31, 2005. The Service Contract, as referenced in the Transfer Agreement, sets forth the terms under which the Parties agreed that CMS would provide healthcare services to the incarcerated population in the custody of the DOC effective July 1, 2005. Pursuant to the Service Contract, CMS began providing healthcare services to the incarcerated population in the custody of the DOC effective July 1, 2005;

WHEREAS, the Parties entered into the Second, Third and Fourth Amendments in order to provide additional funding for additional staff and performance criteria mutually agreed upon between CMS and the DOC; and

WHEREAS, paragraph three of the Transfer and Amendment Agreement executed by and between the Parties on May 31, 2005 states that the term of the Agreement expires on June 30, 2007; and

WHEREAS, paragraph three of the Transfer and Amendment Agreement executed by and between the Parties on May 31, 2005 contains an option for DOC to renew the term of the Service Contract for an additional two-year period, subject to CMS' consent and the parties' agreement on terms for the renewal period; and

WHEREAS, the DOC and CMS have agreed to extend the Service Contract for the period July 1, 2007 through June 30, 2009, contingent upon and subject to the terms and conditions set forth in this Renewal.

NOW, THEREFORE, in exchange for the mutual promises and undertakings set forth in this Renewal, and other good and valuable consideration, the parties hereby agree to amend the Service Contract on the terms and conditions set forth herein.

1. The DOC and CMS hereby agree to extend the Service Contract in accordance with its renewal option terms for the two-year period commencing July 1, 2007 and ending June 30, 2009.

2. For the period commencing July 1, 2007 and ending June 30, 2008, the DOC will pay to CMS the annual aggregate sum of thirty seven million, nine hundred and thirty nine thousand, eight hundred and thirty one dollars (\$37,939,831) as base compensation. For the period commencing July 1, 2008 and ending June 30, 2009, the base compensation amount shall be increased by five per cent (5%) or the amount of one million, eight hundred and ninety six thousand, nine hundred and ninety two dollars (\$1,896,992), for a total base compensation amount in the second renewal year of thirty nine million, eight hundred thirty six thousand, eight hundred twenty three dollars (\$39,836,823). In the event the average daily inmate population exceeds 7,000 inmates for thirty days or longer, the DOC agrees to further pay CMS the additional amount of five dollars sixty three cents (\$5.63) per inmate per day (PIPD). For the second year of the two-year extension period, the PIPD shall be increased to \$5.91.

3. CMS agrees to provide staffing at the levels agreed to in the Transfer and Amendment Agreement, and the Second, Third and Fourth Amendments to the Agreement. CMS agrees to staffing paybacks for net unfilled hours in accordance with Exhibits A and A-1, attached hereto and incorporated herein. The payback methodology set forth in Exhibit A shall replace any prior provision for staffing paybacks or penalties.

4. Compliance, Audit Tool, and Audit Compliance. The parties agree to follow the methodology and procedure set forth in Exhibit B, attached hereto and incorporated herein.

5. The Parties express their understanding and acknowledgment that the DOC intends to fully comply with the recommendations of any monitor supervising DOC compliance with the requirements of any agreement with federal or state governmental oversight authorities or entities. To the extent any changes in policy, procedure, training, or practice with respect to the provision of healthcare in DOC facilities are required in the future, the Parties agree to cooperate, collaborate, and expeditiously comply with any such recommendations. The Parties agree that such cooperation and compliance is a material term of this Renewal Agreement. To the extent that such compliance necessitates any change in the level of services or modification to the staffing to be provided by CMS, the parties agree to negotiate and agree in good faith on the terms of an amendment to the Service Contract as modified by this Renewal Agreement.

6. All invoices, reports, documents provided in response to an audit, and any documentation provided to DOC pursuant to any contractual obligation, including any chart or compilation of data, produced by the facility Health Service Administrators and submitted by CMS to the DOC after the effective date of this Renewal Agreement shall contain the following certification:

"I hereby certify that the information reported herein is true, accurate and complete. I understand that these reports are made in support of claims for government funds."

Any certification related to information and documents produced to the DOC shall be certified only by the appropriate Healthcare Services Administrator. Any certification

related to staffing, invoicing, and auditing as required by this Renewal Agreement shall be certified by the CMS Statewide Medical Director or the appropriate CMS Healthcare Services Administrator.

7. The Parties agree that in the event a dispute should arise between them with regard to staffing paybacks, audit compliance, liquidated damages or any other issue involving the Service Contract as amended, they will meet and confer in an effort to resolve the dispute informally and without the need for judicial intervention and relief. In the event the parties are unable to resolve their dispute between themselves, the parties agree to consider non-binding mediation to resolve the dispute. However, nothing in this Renewal or in the underlying Service Contract, the Transfer and Amendment Agreement or the prior amendments shall be viewed as waiving or compromising the parties' rights to seek relief from the courts.

8. All other terms and conditions contained in the Service Contract and the Transfer and Amendment Agreement and the prior amendments thereto shall remain in full force and effect except as modified herein.

IN WITNESS WHEREOF, the parties have set their hands and seals hereto as of the day and year first above written.

**STATE OF DELAWARE, DEPARTMENT OF
CORRECTION**

By: _____

Name: Carl C. Danberg

Title: Commissioner

Date: 6/21/07

CORRECTIONAL MEDICAL SERVICES, INC.

By: _____

Name: Vickie L. Bybee

Title: Executive Vice President/COO

Date: 6-26-07

EXHIBIT A
Staffing Level Paybacks
(Effective 07/01/07)

Redacted

EXHIBIT A-1

Redacted

EXHIBIT B
Audit Mechanism and Audit Compliance
(Effective 07/01/07)

The Parties agree that the Audit Tool referenced and created pursuant to the Third Amendment to the Service Contract between the Parties shall be carried forward into the renewal term specified herein, subject to certain modifications. The revised Audit Tool is attached hereto as Exhibit B-1. The purpose of the Audit Tool is to evaluate and ensure CMS' compliance with the written performance standards as set forth in the Audit Tool. DOC will employ the Audit Tool at the Sussex Correctional Institute, Howard R. Young Correctional Institution, Baylor Women's Correctional Facility and the Delaware Correctional Center facilities at which CMS provides services on a quarterly basis. Each quarterly audit shall be conducted within a 3-week period and shall be conducted at regular quarterly intervals as determined by DOC.

The written performance standards shall, at a minimum, be consistent with standards established by: (i) the National Commission on Correctional Health Care for Services in Prisons and Jails, (ii) CMS protocols in effect at the time of the audit, and (iii) any policies, protocols, procedures, or clinical pathways currently existing, or adopted in the future, by the DOC. To the extent that compliance with such standards by CMS necessitates any change in the level of services or modification to the staffing to be provided by CMS, the parties agree to negotiate and agree in good faith on the terms of an amendment to the Service Contract as modified by the Renewal Agreement.

Should CMS fail to achieve 80% audit compliance at a facility, DOC will provide written notice of such failure to CMS. CMS shall have the following quarter to achieve compliance at the 80% threshold. In the event that re-audit the following quarter reveals that compliance at the 80% level has not been attained, CMS agrees that the DOC can withhold from CMS' base compensation the amount of \$9,000 per facility per quarter. Such withholding will continue until the level of 80% compliance is achieved at the facility.

Audit Tool

STANDARD: Intake	Question # A-1	Question # A-2	Question # A-3	Question # A-4	Question # A-5	Question # A-6	Question # A-7
Question	Intake screen completed and signed by inmate and healthcare provider on date of intake.	PPD planned at intake and read within 72 hours.	Patients with positive PPD's are evaluated within 2 weeks (CXR performed and visit with provider occurred).	Physical examination completed within 7 days for Prison or 14 days for Jail; within 7 days for all inmates identified at intake with chronic illness.	Physical examination addresses issues identified at intake.	Pregnancy test performed at intake or refusal signed.	For inmates that are pregnant, the clinical plan includes management by specialty OB/Gyn provider.
Methodology	Source Document DAC's Print out of intakes for 30 day period prior to audit. Random choice of (50 record large sites) (20 small sites)	Source Document DAC's Print out of intakes for 30 day period prior to audit. Random choice of (50 record large sites) (20 small sites)	All positive PPD's identified in the audit of A-3	Source Document DAC's Print out of intakes for 30 day period prior to audit. Random choice of (50 records large sites) (20 small sites)	Source Document DAC's Print out of intakes for 30 day period prior to audit. Random choice of (50 records large sites) (20 small sites)	Source Document DAC's Print out of intakes for 30 day period prior to audit. Random choice of (50 record large sites) (20 small sites)	All pregnant inmates in 30 day period prior to Audit.
	Intake Chart ID	Yes	No	N/A	Yes	No	N/A
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33							
34							
35							
36							
37							
38							
39							
40							
TOTALS	0	0	0	0	0	0	0

Total Yes:
Total No:
Total N/A:
Total Applicable:
Results:

Audit Tool

STANDARD: Specialty Care & Chronic Care		Question # B-1	Question # B-2	Question # B-3	Question # B-4	Question # B-5	Question # B-6	Question # B-7	Question # B-8
Question		Timeframe from provider order to patient off-site visit is no more than 60 days; if off site visit does not occur within 60 days a provider will re-evaluate the patient.	When patient is returned from off-site visit there is documentation from specialty provider or notation from site provider noting TX recommendations.	Upon return from outside specialty appointment, the patient is seen by nurse at the facility.	Patient is seen on-site by provider within 7 days of being seen for off-site specialty care, and treatment plan noted.	The chronic care patient is seen every 3 months or more frequently as determined by the provider; provider's plan includes appropriate diagnostic & therapeutic intervention.	Chronic care visit is noted on CC flow sheet and includes education and follow up.	Patient with chronic disease is enrolled in related chronic care clinic.	Problem list is updated.
		Source Document: Consult Log 60 day period prior to audit. (20 requests for large sites) (10 requests for small sites)	Source Document: Consult Log 60 day period prior to audit. (20 Completed requests for large sites) (10 requests for small sites)	Source Document: Consult Log 60 day period prior to audit. (20 Completed requests for large sites) (10 requests for small sites)	Source Document: Consult Log 60 day period prior to audit. (20 Completed requests for large sites) (10 requests for small sites)	Source Document: Chronic Care List and Lab Report for 60 day period prior to audit. 5 Charts for each Clinic: Diabetic, Hypertensive, HIV, Asthma and Seizure disorders	Source Document: Chronic Care List and Lab Report for 60 day period prior to audit. (50 Charts large sites) (20 Charts small sites)	Source Document: Chronic Care List and Lab Report for 60 day period prior to audit. (50 Charts large sites) (20 Charts small sites)	Source Document: Chronic Care List and Lab Report for 60 day period prior to audit. (50 Charts large sites) (20 Charts small sites)
Methodology									
Specialty & CC Chart ID		Yes	No	N/A	Yes	No	N/A	Yes	No
		Yes	No	N/A	Yes	No	N/A	Yes	No
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TOTALS		0	0	0	0	0	0	0	0

Total Yes:
Total No:
Total N/A:
Total Applicable:
Results:

Audit Tool

STANDARD: Mental Health Services	Question # C-1	Question #C-2	Question # C-3	Question # C-4	Question # C-5	Question # C-6				
Question	Inmates with non-emergent positive screening for MH problem are seen by qualified MH professionals within 72 hours.	Mental Health Screening is completed by qualified health professional within 24 hours of intake.	Patients on verified psychotropic medications will have medication(s) ordered within 24 hours of intake.	Inmates on suicide observation are seen daily for assessment by a qualified MH professional.	Inmate released from suicide watch is seen by MH professional within 24 hours after release.	Laboratory testing for patients on psychotropic medications has been completed.				
Methodology	Source Document: DAC's Intake screening list for 60 days prior to audit. (20 for large sites) (10 for small sites)	Source Document: DAC's Intake screening list for 60 days prior to audit. (20 for large sites) (10 for small sites)	Source Document: DAC's Intake screening list for 60 days prior to audit. (20 for large sites) (10 for small sites)	Source Document: All inmates in 60 days prior to audit who have been on Observation. 20 Charts at random from these.	Source Document: All inmates in 60 days prior to audit who have been on Observation. 20 Charts at random from these.	Source Document: Pharmacy list of inmates on Medication needing laboratory work. (10 Charts minimal or 100% if less)				
	MH Chart ID	Yes	No	N/A	Yes	No	N/A	Yes	No	N/A
	1									
	2									
	3									
	4									
	5									
	6									
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	TOTALS	#REF!	#REF!	#REF!	#REF!	#REF!	#REF!	#REF!	#REF!	#REF!

Total Yes:
Total No:
Total N/A:
Total Applicable
Results:

Audit Tool

STANDARD: Symptom-based Sick Call & MAR	Question # D-1	Question # D-2	Question # D-3	Question # D-4	Question # D-5	Question # D-6	Question # D-7	Question # D-8
Question	Sick slips are paper triaged within 24 hours.	Non-emergent requests related to physical complaints or symptoms for sick call, are seen in a face-to-face encounter within 72 hours.	Nurse addressed all of the problems presented by the patient at the sick call encounter.	If patient is referred to practitioner from nurse sick call, visit occurred within 5 business days.	Practitioner addressed problem presented by the patient at the encounter.	Patient received formulary medication(s) within 48 hours of provider order, or per provider's order.	Medication orders on MAR reflect dose, route, frequency, start date and nurse's signature.	No lapse in medication reorder.
Methodology	Source Document: Sick Call Logs for 60 day period prior to audit. (50 charts larger sites) (20 small sites)	Source Document: Sick Call Logs for 60 day period prior to audit. (50 charts larger sites) (20 small sites)	Source Document: Sick Call Logs for 60 day period prior to audit. (50 charts larger sites) (20 small sites)	All from D-1 or minimum of 10 Charts	All from D-1 or minimum of 10 Charts	All from D-1 or minimum of 10 Charts	Source Document: 25 MAR's for large sites and 10 MAR's from small sites (attempt to review several nurses) during the month prior to the audit.	Source Document: Pharmacy reorders for month prior to audit. 20 records audited at random
Sick & MAR Chart	Yes	No	N/A	Yes	No	N/A	Yes	No
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TOTALS	0	0	0	0	0	0	0	0

Total Yes:
Total No:
Total N/A:
Total Applicable
Results:

FOURTH AMENDMENT TO SERVICE CONTRACT

This Fourth Amendment ("Fourth Amendment") is made effective as of the 1st day of April, 2007, by and between Correctional Medical Services, Inc. ("CMS") and the State of Delaware, Department of Correction (the "DOC") and amends: (1) the Service Contract as defined in the Transfer and Amendment Agreement ("Transfer Agreement") between CMS and the DOC executed May 31, 2005, and (2) the Second Amendment to the Service Contract (the "Second Amendment") between the Parties, which was effective as of November 23, 2005, and (3) the Third Amendment to the Service Contract ("Third Amendment"), which was effective as of December 1, 2006.

WHEREAS, the DOC and CMS (hereinafter referred to collectively as the "Parties"), entered into the Service Contract on or about May 31, 2005. The Service Contract, as referenced in the Transfer Agreement, sets forth the terms under which the Parties agreed that CMS would provide healthcare services to the incarcerated population in the custody of the DOC effective July 1, 2005. Pursuant to the Service Contract, CMS began providing healthcare services to the incarcerated population in the custody of the DOC effective July 1, 2005;

WHEREAS, the Parties entered into the Second and Third Amendments in order to provide additional funding for additional staff mutually agreed upon between CMS and the DOC; and

WHEREAS, the Parties have agreed that further staffing increases are desirable at DOC facilities in order to promote quality objectives of the healthcare program;

WHEREAS, CMS has agreed to provide additional staff, and the DOC has agreed to provide additional compensation to CMS; and

WHEREAS, the Parties have agreed to certain additional terms providing for conditions of payment under this Fourth Amendment;

NOW, THEREFORE, in exchange for the mutual promises and undertakings set forth in this Fourth Amendment, and other good and valuable consideration, the Parties hereby agree to amend the Service Contract on the terms and conditions set forth herein.

1. Payments for Staff Hiring

1.1 The DOC agrees to pay CMS up to [REDACTED] ("Additional Funds") for the additional staff positions identified in Exhibit A to this Fourth Amendment upon the position being filled and services commencing. No monies shall become due to CMS in relation to any specific position identified on Exhibit A until such time as CMS identifies the individual who will fill the position as identified on Exhibit A and the individual has commenced providing services

1.2 In consideration of the amounts to be paid in Section 1.1, CMS hereby agrees to take all of the following actions:

1.2.1 CMS agrees that all of the positions identified in Exhibit A, are, as of the effective date of this Fourth Amendment, permanent positions that CMS is obligated to staff under the Transfer Agreement and upon any renewal of this Agreement shall be incorporated in the CMS Staffing Plan.

1.2.2 CMS shall immediately begin recruiting and retention efforts to fill all of the positions identified in Exhibit A, as well as all other staff vacancies, with qualified personnel. Information on the status of CMS' hiring and retention efforts will be reported monthly.

3. Time Frames for Payment of Additional Funds

3.1 The DOC agrees to pay CMS up to [REDACTED] on the following schedule:

3.1.1 DOC will commence reimbursing CMS a pro-rata portion of the Total Additional Cost associated with each position identified on Exhibit A upon:

(a) CMS providing DOC, via electronic or written communication, the name of the individual identified to fill the position; and

(b) The individual commencing services to fill the position as identified on Exhibit A. CMS understands and acknowledges that DOC will not pay any monies for a specific position until the individual(s) filling the position actually starts filling the hours.

3.1.2 The parties agree that staff hired or engaged for the positions on Exhibit A will be permanent employees of CMS at the location identified on the Exhibit. The parties recognize that some of the positions identified on Exhibit A may be filled by current employees and/or contractors of CMS. However, CMS agrees that no current employee or contractor shall transfer into one of the new positions identified on Exhibit A until a replacement (either permanent or PRN) has been secured.

3.1.3 CMS will provide monthly reports to DOC in the form of Exhibit B attached hereto which includes the name of the individual filling the position and CMS will be reimbursed on a monthly basis for each position as it is filled and will continue to be reimbursed unless the position is vacant for greater than sixty (60) days as outlined in Section 3.1.5 below. Each monthly report shall contain the written certification set forth in Section 4.1 of this Fourth Amendment.

3.1.4 Upon satisfying the requirements in section 3.1.1(a) and (b) above, CMS shall invoice DOC on a monthly basis for the pro-rata portion of the Total Additional Cost due and DOC shall remit payment to CMS upon receipt of CMS' invoice.

3.1.5 In the event the individual identified by CMS to fill one of the positions on Exhibit A resigns, terminates employment or for any reason ceases to provide services for CMS, CMS shall use its best efforts to find a permanent replacement for said position. If, however, CMS does not fill the position with a permanent staff member within sixty (60) days, CMS will not bill DOC for said vacant position until CMS fills the position.

4. Certifications

4.1 All monthly invoices related to this Fourth Amendment produced by the facility Health Service Administrators and submitted by CMS to the DOC after the effective date shall contain the following certification, which is to be signed and dated by the Regional Vice President:

"I hereby certify that the information reported herein is true, accurate and complete. I understand that these reports are made in support of claims for government funds."

5. Adjustment of Base Contract Price

The Parties hereby agree that the total amount of the Additional Funds paid hereunder shall be incorporated into and invoiced as part of the Base Contract price for any renewal or extension period whether commencing July 2007 or any renewal or extension period thereafter. DOC does not hereby warrant that any renewal shall take place in relation to this Amendment or any other agreement between the parties.

6. Notices

Any notice or communication required to be given pursuant to this Fourth Amendment by any party shall be in writing and shall be hand delivered or sent by certified or registered mail, postage prepaid, as follows or to such other addresses as the Parties may request in accordance with the notice provisions of this Fourth Amendment:

To the DOC:

James Welch, RN, HN-BC
Director, Office of Health Services
State of Delaware
Department of Correction
245 McKee Road
Dover, DE 19904

To CMS:

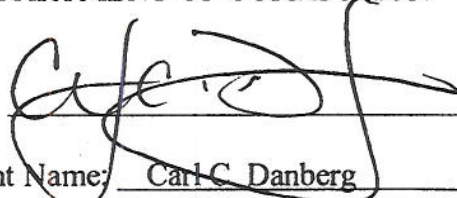
Vickie Bybee
Executive Vice President & COO
Correctional Medical Services, Inc.
12647 Olive Blvd.
St. Louis, MO 63141

7. **Choice of Law and Forum.** The parties agree that the laws of the State of Delaware shall control all aspects of this Amendment and its interpretation. The parties further agree that the proper legal and/or judicial forum for any dispute arising out of this Amendment is the State of Delaware.

8. Except as to the terms and conditions added by this Fourth Amendment, all of the remaining terms and conditions of the Service Contract, the Transfer Agreement, and the Second and Third Amendments shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have set their hands and seals hereto as of the day and year first above written.

STATE OF DELAWARE,
DEPARTMENT OF CORRECTION

By: 

Print Name: Carl C. Danberg

Title: Commissioner

CORRECTIONAL MEDICAL SERVICES, INC.

By:  

Print Name: Vickie Bybee

Title: Executive Vice President & COO

Exhibit A

Redacted

Exhibit B

Redacted

THIRD AMENDMENT TO SERVICE CONTRACT

This Third Amendment ("Third Amendment") is made effective as of the 1st day of December, 2006, by and between Correctional Medical Services, Inc. ("CMS") and the State of Delaware, Department of Correction (the "DOC") and amends: (1) the Service Contract as defined in the Transfer and Amendment Agreement between CMS and the DOC (collectively the "Parties") executed May 31, 2005, and (2) the Second Amendment to the Service Contract (the "Second Amendment") between the Parties, which was effective as of November 23, 2005.

WHEREAS, the DOC and CMS entered into the Service Contract on or about May 31, 2005. The Service Contract, as referenced in the Transfer and Amendment Agreement, sets forth the terms under which the Parties agreed that CMS would provide healthcare services to the incarcerated population in the custody of the DOC effective July 1, 2005. Pursuant to the Service Contract, CMS began providing healthcare services to the incarcerated population in the custody of the DOC effective July 1, 2005;

WHEREAS, the Parties entered into the Second Amendment in order to provide additional funding for additional staff requested by CMS; and

WHEREAS, the Parties have agreed that further staffing and salary increases are desirable at DOC facilities in order to provide the complement of services required by the Service Contract;

WHEREAS, CMS has agreed to raise certain nursing staff pay rates and to provide additional staff, and the DOC has agreed to provide additional compensation to CMS; and

WHEREAS, the Parties have agreed to certain additional terms providing for conditions of payment under this Third Amendment to the Service Contract (the "Third Amendment").

NOW, THEREFORE, in exchange for the mutual promises and undertakings set forth in this Third Amendment, and other good and valuable consideration, the Parties hereby agree to amend the Service Contract on the terms and Conditions set forth herein.

1. Payment of First Installment

1.1 The DOC agrees to pay CMS [REDACTED] within 30 calendar days of the effective date of this Third Amendment subject to each of the conditions set forth in Section 1.2.

1.2 In consideration of the amounts to be paid in Section 1.1, CMS hereby agrees to take all of the following actions:

1.2.1 CMS agrees that all of the employee positions identified in the CMS Staffing Plan, a copy of which is attached hereto as Exhibit A, are, as of the effective date, permanent positions that CMS is obligated to staff under the Transfer Agreement.

1.2.2 CMS shall immediately begin vigorous recruiting and hiring efforts to fill all of the positions identified in Exhibit A, as well as all other staff vacancies, with qualified personnel. Information on the status of CMS' hiring and recruiting efforts will be reported monthly. CMS will use its best efforts to recruit and hire permanent personnel to fill such positions, but may utilize temporary staff to fill the positions until such time as a permanent replacement is hired. CMS agrees that payment of the First Installment is contingent upon filling 90% of the positions referenced in Exhibit A within thirty (30) days from the date of execution of this Amendment. If 90% of the positions referenced in Exhibit A are not filled within thirty (30) days as described above, the parties agree that the First Installment shall be paid to CMS as soon as the 90 % threshold is met.

1.2.3 Within thirty (30) days of executing this Third Amendment, CMS shall designate a licensed, permanent member of the nursing staff at Sussex Correctional Institute, Howard R. Young Correctional Institution, Baylor Women's Correctional Facility, and Delaware Correctional Center to perform chronic care case management functions. The Chronic Care case manager shall be responsible for assuring the quality and continuity of care provided to inmates with chronic conditions. "Chronic conditions" are defined to include all of the chronic conditions described in the May 10, 2002 CMS Proposal for Inmate Health Care Services for the State of Delaware (the "CMS Proposal") under the heading, "Chronic and Convalescent Care". The parties agree that the chronic care case manager supplements, but is not a substitute for, the consult coordinator position that CMS agrees to staff in accordance with Section 1.2.1.

2. Development of Audit Tool

2.1 The Parties agree that within 30 days of the effective date of this Third Amendment they will establish an audit tool (the "Audit Tool") for the purpose of evaluating CMS's compliance with the written performance standards as set forth in the Audit Tool. The written performance standards shall, at a minimum, be consistent with standards established by: (i) the National Commission on Correctional Health Care for Services in Prisons and Jails, and (ii) CMS written protocols in effect at the time of the audit.

2.2 The Audit Tool shall contain written performance standards evaluating the quality of the following services provided under the Service Contract: (i) the delivery of care to inmates with chronic conditions; (ii) the coordination of care following referrals to outside consultants; (iii) the coordination of care following inpatient hospitalizations; (iv) nurse and provider sick call; (v) the testing and treating tuberculosis; and (vi) laboratory testing for inmates receiving psychotropic drugs; (vii) medications delivered as prescribed.

3. Payment of Second Installment

3.1 The DOC agrees to pay CMS [REDACTED] within 30 calendar days of completion of a medical records audit (hereinafter, the "Second Installment Audit"), provided that the Second Installment satisfies all of the following criteria:

3.1.1 The Second Installment Audit shall be conducted within a single two week period at Howard R. Young Correctional Institute, Baylor Women's Facility, Sussex Correctional Institute and Delaware Correctional Center.

3.1.2. The Second Installment Audit shall be initiated upon the written request of CMS. The DOC agrees that upon receipt of a written request from CMS to initiate a Second Installment Audit, it will work in good faith with CMS to identify a mutually agreeable two-week period for the Second Installment Audit. The Second Installment Audit shall be initiated within two weeks of DOC's receipt of CMS' written request.

3.1.3 CMS and the DOC shall each have two representatives participating in the Second Installment Audit (the "Audit Team").

3.1.4. The Audit Team shall use the Audit Tool to perform the Second Installment Audit.

3.1.5. CMS shall become eligible for the Second Installment payment upon successful completion of the Second Installment Audit. Successful completion of the Second Installment Audit is defined within the Audit Tool. The Audit Tool is incorporated into this Agreement by reference herein. The Second Installment payment as set forth in paragraph 3.1 shall be reduced by 20% for each facility which fails to successfully complete the Second Installment Audit. Upon written notice of any such failure, CMS shall request in writing a cure period of 60 days upon the conclusion of which the Second Installment Audit will be reinstituted as to any category which failed to achieve the previously agreed upon performance measures as indicated in the Audit Tool. The cure period may be extended upon mutual agreement of the parties if the category cannot be reasonably cured within the 60 day period and provided CMS has implemented an action plan and has made good faith efforts to address the deficiency. Should CMS be unable to achieve a successful completion of any reinstituted Second Installment Audit, any portion of the Second Installment payment withheld by virtue of the initial failure shall be forfeited.

4. Payment of the Third Installment

4.1 The DOC agrees to pay CMS [REDACTED] within 30 days of receiving written notice that each of the DOC facilities currently accredited by NCCHC have been re-accredited by the NCCHC as a result of the 2006/2007 site survey. The parties acknowledge that it is not uncommon for re-accreditation to occur with some conditions noted. To the extent re-accreditation is withheld due solely to factors outside the control of CMS, the absence of re-accreditation based on such factors alone shall not be an independent basis for withholding payment of the Third Installment. To the extent DOC's facilities are re-accredited with conditions within CMS's control, the parties agree to work cooperatively to address any such conditions noted as part of any re-accreditation. Any such conditional re-accreditation shall not be an independent ground for DOC to withhold payment of the Third Installment. If any facility is not re-accredited, the parties agree that the Third Installment shall be reduced in the amount of 11% for each facility which fails to achieve re-accreditation.

4.2 The DOC's obligation to make payments set forth in paragraph 4.1 shall become operative upon any communication, electronic, written or oral, that any re-accreditation as described in paragraph 4.1 has occurred. Any oral communication from NCCHC regarding re-accreditation must be independently verified by DOC prior to any payment under paragraph 4.1.

5. Payment of Fourth Installment

The DOC agrees to pay CMS [REDACTED] within 30 calendar days of successful completion of a repeat medical records audit conducted under the same terms provided in Section 3.1, (hereafter referred to as the "Fourth Installment Audit"). Successful completion of the Fourth Installment Audit is defined within the Audit Tool.

6. Certifications

6.1 All monthly reports, including any chart or compilation of data, produced by the facility Health Service Administrators and submitted by CMS to the DOC Medical Review Committee after the effective date shall contain the following certification, which is to be signed and dated by any Health Service Administrator:

"I hereby certify that the information reported herein is true, accurate and complete. I understand that these reports are made in support of claims for government funds."

Copies of these certifications shall be produced to the MRC at each regular meeting of the MRC.

7. Adjustment of Base Contract Price

The Parties hereby agree that the total amount of the Installments paid hereunder shall be incorporated into the Base Contract price for any renewal period whether commencing July 2007 or any renewal period thereafter. DOC does not hereby warrant that any renewal shall take place in relation to this Amendment or any other agreement between the parties.

8. Notices

Any notice or communication required to be given pursuant to this Third Amendment by any party shall be in writing and shall be hand delivered or sent by certified or registered mail, postage prepaid, as follows or to such other addresses as the Parties may request in accordance with the notice provisions of this Third Amendment:

To the DOC:

James C. Welch, RN, HN-BC
Health Services Director
Delaware Department of Correction
245 McKee Road
Dover, DE 19904

To CMS:

Vickie Bybee, COO/Executive Vice President
Correctional Medical Services, Inc.
12647 Olive Blvd.
St. Louis, MO 63141

9. Except as to the terms and conditions added by this Third Amendment, all of the remaining terms and conditions of the Service Contract and the Second Amendment shall remain in full force and effect.

10. **Choice of Law and Forum.** The parties agree that the laws of the State of Delaware shall control all aspects of this Amendment and its interpretation. The parties further agree that the proper legal and/or judicial forum for any dispute arising out of this Amendment is the State of Delaware.

IN WITNESS WHEREOF, the parties have set their hands and seals hereto as of the day and year first above written.

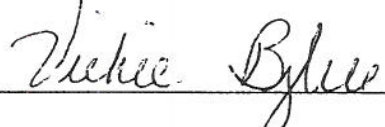
STATE OF DELAWARE,
DEPARTMENT OF CORRECTION

By: 

Print Name: Stan Taylor

Title: Commissioner of Corr.

CORRECTIONAL MEDICAL SERVICES, INC.

By:  ¹⁸₁₂

Print Name: Vickie Bybee

Title: Executive Vice President & COO

Exhibit A

Redacted

SECOND AMENDMENT TO SERVICE CONTRACT

This Second Amendment ("Second Amendment") is made effective as of the 23rd day of November, 2005, by and between Correctional Medical Services, Inc. ("CMS") and the State of Delaware, Department of Correction (the "DOC") and amends the Service Contract as defined in the Transfer and Amendment Agreement between CMS and the DOC (collectively the "Parties") executed May 31, 2005.

WHEREAS, the DOC and CMS entered into the Service Contract on or about May 31, 2005. The Service Contract sets forth the terms under which the Parties agreed that CMS would provide healthcare services to the incarcerated population in the custody of the DOC effective July 1, 2005. Pursuant to the Service Contract, CMS began providing healthcare services to the incarcerated population in the custody of the DOC effective July 1, 2005;

WHEREAS, the DOC has opened the New Castle Women's Work Release Center, and CMS will be providing staff to deliver services at the new women's facility;

WHEREAS, the Parties have further agreed that additional staff is desirable at other, existing facilities in Delaware to provide the complement of services required by the Service Contract; and

WHEREAS, CMS has agreed to provide such additional staff and the DOC has agreed to compensate CMS for the additional staff; and

WHEREAS, the Parties have agreed to certain additional terms on accreditation and evaluation of service delivery.

NOW, THEREFORE, in exchange for the mutual promises and undertakings set forth in this Second Amendment, and other good and valuable consideration, the parties hereby agree to amend the Service Contract on the terms and conditions set forth herein.

1. Effective October 11, 2005, CMS will begin providing healthcare services and staffing in accordance with the terms of the Service Contract at the New Castle Women's Work Release Center. CMS will provide staffing consisting of an additional [REDACTED] full time equivalents (FTE's) in coverage. The DOC shall pay CMS for such additional staff in the total amount of [REDACTED] for the period October 17, 2005 through June 30, 2006.
2. Effective upon the execution of this Second Amendment, the staffing plan as referenced in the Service Contract is amended to permit CMS to retain additional staff and/or independent contractor physicians to provide services at other facilities in Delaware statewide.
3. Effective November 1, 2005, DOC shall pay CMS an additional fee of \$25,000 per month through June 30, 2006, for the increased staff. Effective December 1, 2005, the DOC shall pay CMS an additional fee of \$25,000 per month for the increased staff through June 30, 2006. Effective January 1, 2006, the DOC shall pay CMS an additional fee of \$25,000 per month for the increased staff through June 30, 2006. CMS shall use commercially reasonable efforts to fill all positions with full time employees, PRN staff or agency staff in order to maintain no more than a 5

percent vacancy rate. CMS shall provide a monthly update to DOC that shows the vacancy rate for the previous month.

4. CMS shall take the necessary steps to re-schedule the National Commission on Correctional Healthcare (NCCHC) survey currently scheduled for April/May, 2005; provided however, that CMS shall ensure that surveys by the NCCHC will be conducted at all facilities statewide prior to November 30, 2006. In the event that CMS fails to maintain NCCHC accreditation at one or more facilities currently accredited, the DOC may impose a maximum fine of \$100,000 total (not per facility) against CMS for such failure(s), if accreditation is lost for reasons within CMS' control and responsibility. The DOC also reserves the right to terminate the contract if CMS loses NCCHC accreditation at any or all of the DOC facilities.

5. CMS' Regional Medical Director shall be licensed by the State of Delaware when retained or, if not licensed in Delaware at the time of retention, the Regional Medical Director shall apply for and timely pursue such licensure upon retention.

6. The potential FY06 financial implications from this Second Amendment are in the amount of [REDACTED] for the additional positions statewide and [REDACTED] for staffing for the New Castle Women's Work Release Center annually, through June 30, 2006. CMS understands that this Second Amendment is contingent upon DOC's review of existing FY06 funding and determination of funding from existing appropriations. If DOC does not have sufficient appropriations and funding for the increased payments required by this Second Amendment, then CMS' obligations under this Second Amendment shall cease. The DOC will be required to secure the funding for the increased payments by December 1, 2005 and will communicate this to CMS to ensure that compensation for additional staff is available.

7. The base contract compensation to CMS for the initial term of the Service Contract (7/01/05-6/30/06) for purposes of calculating the increase in the annual contract compensation to be effective July 1, 2006 through June 30, 2007 with inflation is revised because of the addition to compensation set forth in this Second Amendment as follows:

Initial Annual Contract Value	[REDACTED]
Annualized New Castle Women's Staffing	[REDACTED]
Annualized Staffing Modifications	[REDACTED]
Revised Annual Contract Value FY'06*	[REDACTED]

*Represents annual contract compensation PRIOR to any further adjustments identified, documented and agreed upon by CMS and the DOC as part of the 180-day right to renegotiate included in the Service Contract, and specifically Section 4 of the Transfer and Amendment Agreement.

The Revised Annual Contract Value shall be increased by an amount not to exceed [REDACTED] as stipulated in the Service Contract, and specifically Section 5(b) of the Transfer and Amendment Agreement.


8. CMS will modify its semi-monthly invoices to incorporate the additional compensation for the additional staffing at the New Castle Women's Work Release Facility and statewide, effective

November 1, 2005, such that each semi-monthly invoice will reflect an amount that includes one-half of the additional monthly compensation set forth in this Second Amendment. CMS will prepare a separate invoice to cover the additional compensation for the New Castle services for the period October 17 through October 31, 2005, which the DOC will pay within 30 days of receipt.



9. Except as to the terms and conditions added by this Second Amendment, all of the remaining terms and conditions of the Service Contract as previously amended shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have set their hands and seals hereto as of the day and year first above written.

STATE OF DELAWARE, DEPARTMENT OF
CORRECTION

By: 
Name: Stan Taylor
Title: Commissioner
Date: 11/23/05

CORRECTIONAL MEDICAL SERVICES, INC.

By:  
Name: Richard Carter
Title: Executive Vice President
Date: 11-22-05

FIRST AMENDMENT TO AGREEMENT

This First Amendment ("First Amendment") is made effective as of the 1st day of September, 2005, by and between Correctional Medical Services, Inc. ("CMS") and the State of Delaware, Department of Correction (the "DOC") and amends the Transfer and Amendment Agreement ("Agreement") between CMS and the DOC.

1. The parties agree to add a [REDACTED] Dual Diagnosis Mental Health Clinician position to the staffing plan at the Sussex Correctional Institution effective September 1, 2005. The DOC shall compensate CMS at the rate of [REDACTED] per month for the additional position. The parties understand and agree that the DOC may elect to eliminate this position at any time upon ~~xx~~ ^{90 (mb)} days written advance notice to CMS.

Except as to the terms and conditions added by this Amendment, all of the remaining terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have set their hands and seals hereto as of the day and year first above written.

STATE OF DELAWARE, DEPARTMENT OF
CORRECTION

Attest: Donna B. Green

By: [Signature]
Name: Michael DeJoy
Title: Deputy Warden SCI

CORRECTIONAL MEDICAL SERVICES, INC.

Attest: [Signature]

By: [Signature]
Name: Richard Carter
Title: Executive Vice President

TRANSFER AND AMENDMENT AGREEMENT

This Transfer and Amendment Agreement (this "Amendment") is made and entered into this 31st day of May 2005, by and between the State of Delaware, Department of Correction (the "DOC") and Correctional Medical Services, Inc. ("CMS"). The DOC and CMS are sometimes referred to herein collectively as the "Parties" and individually as a "Party."

RECITALS

A. First Correctional Medical-Delaware, L.L.C. ("FCM") and the DOC were parties to that certain Health Care Services Contract, dated as of the 17th day of June 2002 (the "FCM Contract"); and the DOC has terminated the FCM Contract effective as of July 1, 2005.

B. The DOC desires to have CMS assume the service provider role vacated by FCM as of 12:01 a.m., July 1, 2005 (the "Effective Date"), and CMS desires to assume such service performance obligations as described in the FCM Contract as amended, modified, and clarified herein (as amended, the "Service Contract").

AGREEMENT

In consideration of the foregoing, the mutual agreements and covenants herein contained, and other good and valuable consideration (the receipt, adequacy and sufficiency of which are hereby acknowledged by the Parties by their execution hereof), the Parties agree as follows.

- 1. Service Performance.** As of the Effective Date, CMS will commence performance of the Service Contract and will assume the service performance obligations under the Service Contract from and after the Effective Date. For and in consideration of CMS' agreement to assume service obligations as described herein, the DOC agrees that it shall continue to hold FCM responsible and liable for any and all claims, debts, obligations, expenses, costs, suits, actions, indemnification commitments, and any other liabilities ("Claims") asserted by the DOC, or asserted by any other entities or individuals against the DOC, the State of Delaware, or CMS, or any of the foregoing entities' officers, employees, contractors, or agents, arising out of or relating to the FCM Contract for the period prior to July 1, 2005, regardless of whether such Claims were made or communicated before or after July 1, 2005. The DOC agrees and understands that as a condition of CMS' agreeing to provide service, CMS shall assume no responsibility or liability for, arising out of, or relating to any Claims.
- 2. Incorporation and Integration.** The DOC and CMS agree that where the Service Contract incorporates the "FCM Proposal" and the "FCM Question and Response Memorandum, dated May 21, 2002", such references shall be deleted and the "CMS Proposal, dated May 10, 2002" shall be inserted in lieu thereof. The incorporation of the RFP as part of the Service Contract shall remain in effect and unchanged hereby. Except as otherwise specifically amended or modified herein, the terms of the Service Contract in effect as of the date hereof shall remain in effect until such time as the Parties agree to modification thereof. In the event of a conflict between any Service Contract provision or understanding (including any incorporated RFP and proposal documents) and any provision of this Amendment, the provisions and understandings of this Amendment shall control.
- 3. Term.** Notwithstanding anything to the contrary in the Service Contract, the Parties hereto agree that the term of the Service Contract shall be for a two (2) year period, commencing as of the Effective Date. The term of the Service Contract may be extended for two (2) additional, successive two (2) year renewal terms, provided that the DOC gives written notice to CMS of its desire to extend the Service Contract not less than ninety (90) days prior to the expiration of the then current term, and further

liquidated damages, and such other assessments and adjustments associated with performance, staffing, or vacancies.

8. Termination. The Service Contract may terminate as follows:

a. If the Parties do not mutually agree to extend the Service Contract pursuant to the renewal terms set forth in Section 3 above, then the Service Contract will terminate at the expiration of the then current term; or

b. In the event that either Party shall give notice to the other Party that such other Party has defaulted in the performance of a material obligation under the Service Contract, and such default shall not have been cured within thirty (30) days following the giving of such notice in writing, then the Party giving such notice shall have the right to terminate the Service Contract upon sixty (60) days written notice following the foregoing thirty (30) day cure period;

c. In the event that the DOC and CMS mutually agree in writing to terminate the Service Contract prior to the end of a term hereunder, then the Service Contract may be terminated on such terms and on such date as stipulated in such written document;

d. After January 1, 2006, either Party may give the other Party written notice of termination of the Service Contract upon not less than one hundred and eighty days (180) prior to the date of termination specified in such notice; or

e. The DOC's obligation to pay CMS for services rendered pursuant to the Service Contract is conditioned upon the availability of state or federal government funds that are duly appropriated. If funds are not appropriated for the DOC to pay CMS for these services, the DOC may terminate the Service Contract at the end of the period for which funds are available. In the event the DOC intends to exercise this option, it will provide sixty (60) days written notice to CMS of the intent to terminate the Service Contract. The DOC shall not be obligated or liable for any future payments due for services provided after the termination date under this Section 8.e. The DOC will pay CMS for services rendered up to the termination date.

9. DHSS Contractual Arrangement. FCM had previously negotiated a contractual arrangement with the Delaware Health and Social Services, Division of Social Services ("DHSS") in which the DHSS agreed to accept for reimbursement claims from Medicaid providers for certain eligible inmate inpatient hospitalization. Under such arrangement, FCM agreed to transfer to DHSS certain payment and processing information for inmate inpatient hospitalizations for eligibility determination and possible reimbursement. Under that agreement, DHSS was willing to accept claims for dates of service on or after September 1, 2002 from Medicaid providers for "certain incarcerated persons who meet the criteria." DOC agreed to reimburse DHSS for such payments, and to withhold from FCM such corresponding amounts. CMS understands that its pricing is subject to such potential withholds, assuming the provision to CMS by the DOC or DHSS of sufficient documentation, and further assuming DHSS is willing to negotiate or to transfer such agreement to CMS, and such arrangement satisfies and is consistent with all then applicable privacy, patients' rights, reimbursement, and healthcare laws, regulations, and federal and state governmental agency guidance on such matters.

10. Accreditation. CMS agrees to operate a program designed to maintain or to achieve National Commission on Correctional Health Care ("NCCCHC") accreditation.

11. Applicable Law, Appropriations, and Requisite Authority. The DOC and CMS each agrees that its performance and undertakings pursuant to the Service Contract (and such other ancillary agreements that may arise in connection therewith) shall be in accordance with applicable laws, rules,

liquidated damages, and such other assessments and adjustments associated with performance, staffing, or vacancies.

8. Termination. The Service Contract may terminate as follows:

a. If the Parties do not mutually agree to extend the Service Contract pursuant to the renewal terms set forth in Section 3 above, then the Service Contract will terminate at the expiration of the then current term; or

b. In the event that either Party shall give notice to the other Party that such other Party has defaulted in the performance of a material obligation under the Service Contract, and such default shall not have been cured within thirty (30) days following the giving of such notice in writing, then the Party giving such notice shall have the right to terminate the Service Contract upon sixty (60) days written notice following the foregoing thirty (30) day cure period;

c. In the event that the DOC and CMS mutually agree in writing to terminate the Service Contract prior to the end of a term hereunder, then the Service Contract may be terminated on such terms and on such date as stipulated in such written document;

d. After January 1, 2006, either Party may give the other Party written notice of termination of the Service Contract upon not less than one hundred and eighty days (180) prior to the date of termination specified in such notice; or

e. The DOC's obligation to pay CMS for services rendered pursuant to the Service Contract is conditioned upon the availability of state or federal government funds that are duly appropriated. If funds are not appropriated for the DOC to pay CMS for these services, the DOC may terminate the Service Contract at the end of the period for which funds are available. In the event the DOC intends to exercise this option, it will provide sixty (60) days written notice to CMS of the intent to terminate the Service Contract. The DOC shall not be obligated or liable for any future payments due for services provided after the termination date under this Section 8.e. The DOC will pay CMS for services rendered up to the termination date.

9. DHSS Contractual Arrangement. FCM had previously negotiated a contractual arrangement with the Delaware Health and Social Services, Division of Social Services ("DHSS") in which the DHSS agreed to accept for reimbursement claims from Medicaid providers for certain eligible inmate inpatient hospitalization. Under such arrangement, FCM agreed to transfer to DHSS certain payment and processing information for inmate inpatient hospitalizations for eligibility determination and possible reimbursement. Under that agreement, DHSS was willing to accept claims for dates of service on or after September 1, 2002 from Medicaid providers for "certain incarcerated persons who meet the criteria." DOC agreed to reimburse DHSS for such payments, and to withhold from FCM such corresponding amounts. CMS understands that its pricing is subject to such potential withholds, assuming the provision to CMS by the DOC or DHSS of sufficient documentation, and further assuming DHSS is willing to negotiate or to transfer such agreement to CMS, and such arrangement satisfies and is consistent with all then applicable privacy, patients' rights, reimbursement, and healthcare laws, regulations, and federal and state governmental agency guidance on such matters.

10. Accreditation. CMS agrees to operate a program designed to maintain or to achieve National Commission on Correctional Health Care ("NCCCHC") accreditation.

11. Applicable Law, Appropriations, and Requisite Authority. The DOC and CMS each agrees that its performance and undertakings pursuant to the Service Contract (and such other ancillary agreements that may arise in connection therewith) shall be in accordance with applicable laws, rules,

regulations, and court orders ("Applicable Laws"), and if any existing agreements, undertakings or understandings are or become inconsistent with Applicable Laws, then the Parties hereto agree to conform such documents and actions to be consistent with such laws. The DOC and CMS each acknowledges and agrees that (as stated in Section 8.e. above) the Service Contract is subject to the appropriation of adequate funding and any other necessary approvals by the Delaware General Assembly. Each Party hereto represents for itself and agrees that the individual executing this Amendment on its behalf has all requisite power and authority to do so and that upon execution of the Assignment by signatory parties thereto and such approvals, if necessary, as described above, the Service Contract as modified by this Amendment shall constitute the legal, valid, and binding obligation of such Party, enforceable in accordance with the terms herein.

11. **Counterparts and Authority.** This Amendment may be executed in two or more counterparts, each of which shall constitute an original, but all of which shall constitute one and the same agreement.

[remainder of page intentionally left blank; next page is signature page]

IN WITNESS WHEREOF, the Parties have caused this Amendment to be duly entered into as of the date first above written.

STATE OF DELAWARE,

DEPARTMENT OF CORRECTION

By: 

Print Name: STANTON TAYLOR

Title: Commissioner Del DOC

CORRECTIONAL MEDICAL SERVICES, INC.

By: 

Print Name: Richard Carter

Title: Executive Vice President, COO

Original

HEALTH CARE SERVICES CONTRACT

This Agreement is made this 17th day of June 2002, by and between First Correctional Medical-Delaware, L.L.C. ("FCM") and the State of Delaware, Department of Correction ("DOC").

RECITALS

WHEREAS; the DOC desires to purchase the health care services offered by FCM to serve the needs of the State of Delaware and the State's inmate population; and

WHEREAS, the State has asked prospective vendors to submit proposals for contract No. 2828; and

WHEREAS, FCM's sole member (First Correctional Medical, Inc.) submitted a proposal to provide the aforementioned health care services to the DOC and its proposal was accepted by the DOC; and

WHEREAS, on Wednesday May 29, 2002, the DOC and FCM's sole member entered into final negotiations with the express intent to execute a contract for the provision of health services to Delaware's incarcerated population; and

NOW THEREFORE, in consideration for the mutual promises contained herein, the parties enter into this Agreement and its related documents to govern their relationship and hereby revoke any previous agreement between the parties. All references in said documents to "FCM" or "First Correctional Medical, Inc." or "First Correctional Medical" shall be deemed a reference to FCM as if FCM made the proposal and agreements set forth in or under such documents and was the successful bidder. The Terms and Conditions of this Agreement are contained within this DOC/FCM health care services contract which shall include by this reference the Request for Proposal, FCM's Proposal and the FCM Question and Response Memorandum dated May 21, 2002; and

NOW THEREFORE, the DOC and FCM mutually agree as follows:

1. This agreement is contingent upon funding being appropriated by the State of Delaware for each year of this contract. Funding is appropriated for medical services through the annual State Budget Act.
2. The DOC and FCM agree on an annual base price of \$17,735,904.00 for the 1st two years of the contract. FCM shall submit to DOC an invoice on or about the 15th and last day of each month during the term of this contract commencing on July 15th of each fiscal year. Each invoice shall be for one twenty-fourth of the annual base price due hereunder for each year of this contract. DOC shall pay each invoice within 5 days of receipt. The amount of said monthly payment shall change in the event of any mutually agreed to change in the annual base price for any year that this contract remains in effect or as otherwise provided under the contract documents including any schedules which are a part thereof or which are attached hereto (which shall be deemed a part hereof).

Additional modifications to the DOC Request and FCM's Proposal:

- A. The Sex Offender Unit has been deleted.
 - B. Three Transition Units and a Structured Care Unit currently are in operation. The Transition Units are at Plummer Community Correctional Center, Multi-Purpose Criminal Justice Facility and Baylor Women's Correctional Institution. The Structured Care Unit is at Sussex Correctional Institution.
 - C. Subject to the terms hereof and the documents referred to herein, the .. required Vendor services include but are not limited to basic medical services, mental health services, dental services, continuous suicide watch, the transition units, structured care programs, specialized women's services, and services to DOC staff. A complete itemization of services is in the DOC's RFP, as limited by FCM's Proposal.
3. The DOC accepts the variable rate per inmate proposed per year by FCM for times when the count is over the 6700-offender base as shown on the attached schedules which are made a part hereof. After each month, FCM and DOC shall

agree to a reconciliation of the number of inmates for the prior month (over a base of 6700). Any additional payment (based on the attached schedule) due FCM as a result of any number of inmates over the base amount shall be paid to FCM with the next payment due hereunder.

4. Annual increases will be in accordance with the revised Cost Summary Sheet presented in FCM's proposal reflecting the new base of \$17,735,904.00 and the other terms and provisions hereof.

5. FCM and the DOC agree to modify the RFP and Proposal as follows:

- A. To the extent ACA Health Care Standards and NCCHC Standards differ, FCM will adhere to the higher standard;
- B. To the extent that community standards for mental health care are unclear or not specific, FCM will be required to implement "Best Practices" from State Correctional Systems, which shall be deemed to be the average national level of such services.
- C. Clarify language in the FCM proposal to read:
 - a) Pg. 26, paragraph 1, last sentence. Be it known that the DOC does not authorize the transfer of inmates to a detoxification facility.
 - b) Pg. 60, "Response to trauma incidents", second paragraph, last sentence should read: "These reports will be provided to the warden or designee, and others as appropriate in the corrections chain of command prior to the end of shift in which the incident occurred."
- D. Contract provides for a capitated rate for health care services. Fee structure is established by the base rate (as adjusted) plus per diem rate for inmate population over 6700. Structural changes and/or additions to institutions will not result in a renegotiated rate for service.

- E. The parties acknowledge that DOC shall pay for any equipment and services (including software and the charges for installation and training relating thereto) which are necessary, required or requested by FCM under the operation of this contract which individually exceeds \$500.00 per individual item. All equipment, supplies and facilities currently in place at or located within the facilities at which the services shall be provided shall be made available to FCM at no cost to or credit against FCM in connection with the performance of its services hereunder. In addition, DOC shall provide at its cost and expense all maintenance services required or requested by FCM in connection with any equipment or any part of the facilities.
- F. Out of the first two payments due FCM hereunder, DOC shall retain a total sum of \$500,000.00 (\$250,000.00 in each of the first two payments) to insure the observance and performance of all of the covenants, terms, conditions and undertakings herein contained to be performed or observed by FCM. Said security deposit or the balance thereof shall be returned to FCM not more than thirty (30) days following the termination or expiration of this contract provided that FCM has materially performed and observed all of said covenants, terms, conditions and undertakings herein. No other bond, guaranty or other deposit, security or assurance shall be due, required or owed by FCM.
- G. Any financial reporting obligations shall be limited to FCM.
- H. In no event shall staffing levels constitute a breach or default by FCM hereunder.
- I. In the event that FCM does not receive payment on or before the 30 day following the receipt of an invoice by the DOC, the amount due on the invoice shall bear interest at an annual rate of 12.00% (or the maximum rate allowed by law, whichever is lower) until said payment is made in full.

6. The DOC is purchasing Professional Health Services. Performance is the essence of this contract. To the extent, negotiations involved a discussion of staffing patterns; those discussions were intended to ensure FCM fully understood the scope of the contract.

7. Appropriation

Funds authorized for use under the contract are obligated within the budget period (fiscal years July 1- June 30) of which they are awarded. Contracts and purchase orders must be issued on or before the expiration date of the budget period or the funds will no longer be available for use by the vendor. If funds are not appropriated at the amounts established by this contract each party shall have the right, to be exercised with not less than 60 days prior notice to the other, to terminate this contract and all payment and service obligations hereunder and relating hereto. However, said termination right may only be exercised with an effective date of the last day of the last month of a fiscal year of the term of this contract. At no time will the level of services go below those specified by the NCCHC Prison Standards:

8. DEPARTMENT INDEMNIFICATION

The FCM will hold harmless, indemnify, and defend the DOC, the State of Delaware and their agents, employees, or officers of the State of Delaware from any and all suits, actions, losses, liability, damages (including punitive damages), expenses, reasonable attorney fees (including salaries of attorneys regularly employed by the State of Delaware), judgments, or settlements incurred by the DOC, the State of Delaware or their agents, employees, or officers arising out of the negligent provision of health care services by FCM, its employees, or subcontractors under the contract, including direct or indirect negligence or intentional acts of omission or commission, and professional malpractice regardless of any negligence or any intentional acts of omissions or commission by employees or officials of the DOC.

9. APPLICABLE LAW/GOVERNING LAW/ CHOICE OF LAW

The laws of the State of Delaware shall apply, except where Federal Law has precedence. FCM consents to jurisdiction and venue in the State of Delaware. The DOC shall enter a Purchase Order on or before June 30, 2002. The Purchase Order must be approved on July 8, 2002 or this contract shall be null and void and of no force or effect. FCM must possess an active Delaware Business License as issued by the Department of Finance through its Division of Revenue. FCM must remain in good financial standing with the State of Delaware.

If any provision of this contract is held by a court of competent jurisdiction to be contrary to law, the remaining provisions of this contract will remain in full force and effect.

FCM's sole member shall have no right, title, obligation or liability hereunder or under any document referred to herein unless hereafter expressly accepted and agreed to thereby.

10. TERMS AND RENEWAL OPTIONS

Subject to the other terms and provisions hereof, the initial term ("Initial Term") of this contract shall be for a period of 6 years commencing July 1, 2002 ("the Commencement Date") and expiring (unless renewed) on June 30, 2008. This contract is renewable by the DOC for two (2) additional periods of two (2) years each ("the Extended Term"), according to the terms of the RFP.

If DOC defaults hereunder, FCM may, at its discretion, terminate this contract upon not less than thirty days written prior notice.

11. CONFLICT RESOLUTION

The contract documents shall consist of this contract, the Request for Proposal, the FCM Proposal, and the FCM Question and Response Memorandum dated May 21, 2002, as well as all cost and other updates relating thereto and the schedules, grids and other attachments attached hereto which are hereby made a part hereof. In the event of any conflict between the contract documents, the contract documents

will be interpreted in the following order and the lower number below shall govern and control:

1. This Contract and the summary sheet, pricing grid, and the other schedules, grids and attachments hereto.
2. FCM's response to DOC written questions dated 5/21/2002 (the FCM Question and Response Memorandum dated May 21, 2002)
3. Request for Proposals (including any amendments and updates and other questions and answers)
4. FCM Proposal and any updates relating thereto

STATE OF DELAWARE
DEPARTMENT OF CORRECTION

BY: 

TITLE: Commissioner

DATE: 6/17/02

FIRST CORRECTIONAL MEDICAL-
DELAWARE, L.L.C.

BY: 

TITLE: President

DATE: 6/17/02